

## EMPLOYMENT RELATIONS COMMISSION

Budget Summary							
Fund	2000-01 Base Year Doubled	2001-03 Governor	2001-03 Jt. Finance	2001-03 Legislature	2001-03 Act 16	Act 16 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$5,566,600	\$5,300,600	\$5,251,000	\$5,300,600	\$5,300,600	-\$266,000	- 4.8%
PR	<u>459,200</u>	<u>456,400</u>	<u>535,800</u>	<u>456,400</u>	<u>456,400</u>	<u>- 2,800</u>	<u>- 0.6</u>
TOTAL	\$6,025,800	\$5,757,000	\$5,786,800	\$5,757,000	\$5,757,000	-\$268,800	- 4.5%

FTE Position Summary						
Fund	2000-01 Base	2002-03 Governor	2002-03 Jt. Finance	2002-03 Legislature	2002-03 Act 16	Act 16 Change Over 2000-01 Base
GPR	28.50	28.50	28.25	28.50	28.50	0.00
PR	<u>3.00</u>	<u>3.00</u>	<u>3.25</u>	<u>3.00</u>	<u>3.00</u>	<u>0.00</u>
TOTAL	31.50	31.50	31.50	31.50	31.50	0.00

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS

**Governor/Legislature:** Provide standard budget adjustments to the base budget for: (a) full funding of continuing salaries and fringe benefits (-\$99,200 GPR and -\$9,500 PR annually); (b) BadgerNet increases (\$1,000 GPR and \$100 PR annually); and (c) fifth week of vacation as cash (\$28,600 GPR annually).

GPR	- \$139,200
PR	<u>- 18,800</u>
Total	- \$158,000

#### 2. BASE BUDGET REDUCTIONS [LFB Paper 245]

**Governor/Legislature:** Reduce the Commission's GPR state operations appropriation by \$139,200 in each year. This amount represents a 5% reduction to the Commission's GPR adjusted base budget.

GPR	- \$278,400
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### 3. SASI INITIATIVE

GPR	\$151,600
PR	16,000
Total	\$167,600

**Governor/Legislature:** Provide \$75,800 GPR and \$8,000 PR annually for basic desktop information technology support as part of a small agency support infrastructure (SASI) program. This support is currently provided to small agencies by DOA. The proposed funding would support DOA user fee charges of \$2,200 per year for each user account at the Commission (\$59,700 GPR and \$6,300 PR annually) and new BadgerNet connections (\$16,100 GPR and \$1,700 PR annually). The services supported at DOA include desktop applications and hardware; continuous help desk support; network infrastructure and security; centralized data storage, backup and disaster recovery; dialup service; and E-mail/messaging services.

### 4. ARBITRATION AWARDS AFFECTING CITY OF MILWAUKEE POLICE OFFICERS [LFB Paper 425]

**Governor:** Authorize an arbitrator appointed to resolve a collective bargaining impasse between the City of Milwaukee and its police officers to include in a compulsory, final and binding arbitration award provisions relating to the establishment of a system for conducting interrogations of members of the police department that is limited to the hours between 7 a.m. and 5 p.m. on working days, if the interrogations could lead to disciplinary action, demotion or dismissal. Define "working day" to include all days except Saturday, Sunday and current state government holidays. Specify that this new authority would first apply to petitions for arbitration involving City of Milwaukee police officers that are filed after the general effective date of the biennial budget act.

Under current law, an arbitrator appointed to resolve a collective bargaining impasse involving the City of Milwaukee and its police officers may unilaterally determine the economic and noneconomic issues in dispute without regard to the parties' respective bargaining positions. Without restriction because of enumeration, the arbitrator is currently authorized to include in the award any of the following matters: (a) all items of compensation; (b) working hours, overtime standards, and the criteria for the assignment and scheduling of work; (c) seniority issues, promotional programs, criteria and procedures for merit increases, and work rules (except those work rules created by law); (d) any educational programs for police officers deemed appropriate; (e) a system for resolving disputes under the contract, including final and binding arbitration; (f) the duration of the contract; and (g) a system for administration of the collective bargaining agreement between the parties by an employee of the Police Department who is not directly accountable to the Chief of Police or the Milwaukee Board of Fire and Police Commissioners in matters relating to that administration. The proposed language on establishing a system for conducting interrogations would be added to this enumeration.

**Joint Finance:** Specify that the limitation on the times during which members of the City of Milwaukee Police Department could be interrogated would not apply if the interrogation were part of a criminal investigation.

**Senate:** Delete provision.

**Assembly/Legislature:** Restore provision, as modified by Joint Finance.

[Act 16 Sections: 2610 and 9317(6)]

**5. STAFF SUPPORT FOR COLLECTIVE BARGAINING TRAINING ACTIVITIES** [LFB Paper 426]

	<b>Jt. Finance (Chg. to Base)</b>		<b>Legislature (Chg. to JFC)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	-\$49,600	- 0.25	\$49,600	0.25	\$0	0.00
PR	<u>79,400</u>	<u>0.25</u>	<u>- 79,400</u>	<u>- 0.25</u>	<u>0</u>	<u>0.00</u>
Total	\$29,800	0.00	-\$29,800	0.00	\$0	0.00

**Joint Finance:** Convert \$24,800 GPR and 0.25 GPR position annually associated with the supervision of the Commission's labor/management cooperative training program to PR funding to be supported from collective bargaining training fees and clarify that the training fees appropriation is an operations appropriation. Provide an additional \$29,800 PR in 2001-02 from collective bargaining training fees to permit the Commission to contract with the Department of Employment Relations to deliver labor/management cooperative training to supervisors and represented employees, primarily in state agencies.

**Senate:** Delete provision, except for technical clarification of appropriations language.

**Assembly:** Restore provision.

**Conference Committee/Legislature:** Delete provision, except for technical clarification of appropriations language.

[Act 16 Section: 687m]

**6. GENERAL PROGRAM OPERATIONS PARTIAL FUNDING CONVERSION**

**Assembly:** Delete \$100,000 GPR in 2001-02 and \$200,000 GPR in 2002-03 and 2.0 GPR positions and provide \$100,000 PR in 2001-02 and \$200,000 PR in 2002-03 and 2.0 PR positions to reflect the partial funding conversion of a portion of the Commission's general program operations function, effective January 1, 2002. Authorize the Commission to assess and collect a reasonable fee for any service that it provides under provisions of the Employment Peace Act (Subchapter I of Chapter 111 of the statutes), the Municipal Employment Labor Relations Act (Subchapter IV of Chapter 111 of the statutes), and the State Employment Labor Relations Act (Subchapter V of Chapter 111 of the statutes). Specify that these additional fees would be credited to an existing PR-supported fee appropriation.

**Conference Committee/Legislature:** Delete provision.

**7. ELIMINATION OF GENERAL COUNSEL POSITION**

**Senate:** Delete \$128,800 GPR and 1.0 GPR position annually to reflect the elimination of the position of General Counsel at the Commission. Prohibit the Commission from designating any other employee as General Counsel.

**Conference Committee/Legislature:** Delete provision.

**8. REPEAL THE AUTHORITY OF THE COMMISSION CHAIRPERSON TO APPOINT AN EXECUTIVE ASSISTANT**

**Senate:** Repeal the current statutory authority for the Chairperson of the Commission to designate an Executive Assistant. Although the Chairperson of the Commission is currently authorized under s. 230.08(2)(m)2. to name an Executive Assistant, the Legislature has neither authorized nor funded such a position at the Commission.

**Conference Committee/Legislature:** Delete provision.

**9. SELECTION BY SCHOOL DISTRICTS OF GROUP HEALTH INSURANCE PROVIDERS MADE A PERMISSIVE SUBJECT OF BARGAINING UNDER CERTAIN CIRCUMSTANCES**

**Assembly:** Make the following changes to the Municipal Employment Relations Act relating to the selection of group health care benefits providers by school district employers:

*Selection of Health Insurer Made a Permissive Subject of Bargaining under Certain Circumstances.* Provide that no school district employer would be required to bargain with respect to the selection of any group health care benefits provider for the district's professional employees if the provider offers health care benefits coverage that is "substantially similar" to that offered by other providers who submit sealed bids for such services to the school district. Include reference to this new permissive subject of bargaining exception in the current statutory provision stipulating that matters relating to wages, hours and conditions of employment are deemed mandatory subjects of bargaining and the parties to a collective bargaining agreement have a duty to bargain on such matters.

Under current practice, the Commission has consistently held that matters such as changing the benefits provided under group health insurance coverage or choosing an insurance carrier to provide such coverage are mandatory subjects of bargaining. Also, current law requires a school district to solicit sealed bids for the provision of health care benefits to the district's professional employees prior to the selection of any provider. There is no requirement that the school district actually contract with the lowest cost bidder.

*Commissioner of Insurance to Promulgate Rules on "Substantially Similar" Coverage.* Direct the Commissioner of Insurance to promulgate administrative rules setting out a standardized summary of benefits provided under health care coverage policies and plans for use in determining benefit similarities and differences among policies and plans.

*Employment Relations Commission Determination of Whether the School District Employer Has Maintained Health Care Benefits for Purposes of a Qualified Economic Offer (QEO).* Stipulate that for the purposes of determining whether the fringe benefits provided by the school district employer to its represented school teacher employees have been maintained for QEO purposes, the Commission would be required to consider substantially similar health care benefits to be identical to existing health care benefits. The Commission would be required to use the rules promulgated by the Commissioner of Insurance to determine if the health care benefits were substantially similar.

Under current law governing QEOs, a school district employer must maintain both the existing fringe benefits package and the district's percentage contribution effort to that package. The employer must also provide any annual funding increase required to maintain the fringe benefits provisions up to the equivalent of 1.7% of total compensation and fringe benefits costs for the school teacher employees. In the event that the school district employer would not have to incur additional expenditures amounting to 1.7% of total compensation and fringe benefits because of the selection of "substantially similar" health care benefits coverage, current law would require that the difference between the lower actual costs and 1.7% (deemed "fringe benefits savings") be passed on to employees as an additional element of the QEO salary offer.

*Initial Applicability.* Specify that the above provisions would first apply to collective bargaining agreements that expire or are extended, modified, or renewed, whichever occurs first, on and after the general effective date of the biennial budget act.

**Conference Committee/Legislature:** Delete provision.

#### **10. TREATMENT OF HEALTH INSURANCE COST INCREASES UNDER A QUALIFIED ECONOMIC OFFER**

**Senate:** Modify current law qualified economic offer (QEO) provisions applicable to school district employers, as follows:

*Funding of Health Insurance Cost Increases.* Specify that for the purpose of calculating fringe benefits costs under a QEO, the Commission must develop forms that exclude from the calculation of fringe benefits costs that must be maintained under the QEO any increased costs for health insurance benefits that are in excess of the U. S. Consumer Price Index, U. S. city average (CPI-U), as determined by the federal Department of Labor for the 12-month period ending the preceding December 31.

*Effective Date.* Specify that this provision would first apply to the calculation of fringe benefits costs under a QEO submitted by a school district employer on and after the general

effective date of the biennial budget act. For most districts, these provisions would not apply until the 2003-05 biennium.

*Potential Fiscal Impact.* Under current law, the school district employer must maintain both the existing employee fringe benefits package and the district's percentage contribution effort to that package. The employer must provide any funding increase required to maintain these fringe benefits provisions up to the equivalent of 1.7% of total compensation and fringe benefits per employee. Where the costs of maintaining the fringe benefits effort are less than 1.7%, the employer must pass on the difference between the lower percentage and 1.7% as an additional element of the salary offer. Where the costs of maintaining the fringe benefits effort are between 1.7% and 3.8%, the employer may reduce the amount of the salary offer element by an amount corresponding the difference between the higher percentage and 1.7%. Where the costs of maintaining the fringe benefits effort exceed 3.8%, the employer may provide for a decrease in current salaries sufficient to fund the fringe benefits costs in excess of 3.8%.

Under this proposal, health insurance cost increases that exceeded the CPI-U for the preceding calendar year would no longer be funded under the QEO. School districts do not centrally report their annual health insurance costs but do report total employee fringe benefits costs. Consequently, only general cost approximations based on aggregate data are possible. Using estimated current costs as an example, if it is assumed that school districts expended the same proportion of their fringe benefits costs on health insurance as does the state in the most recent year, total instructional employee health benefits costs for all school districts of \$451,822,000 in 2000-01 are estimated. For this example, the CPI-U increase for calendar year 2000 was 3.4%, meaning that, in the aggregate for all school districts, the first \$15,362,000 of increased health insurance costs for 2001-02 would be funded as part of the QEO and any cost increases in excess of this amount would have to be funded by the district outside the QEO. If health insurance costs were to increase for 2001-02 at the same annual rate experienced by the state over the last three years (14.63%), the amount of aggregate additional health insurance costs for all districts would be an estimated \$66,101,500, or \$50,739,500 more in 2001-02 than the CPI-U threshold. It should be emphasized that an individual district's health insurance cost increase experience could differ markedly from these aggregate projections.

If the provision is enacted and additional costs above the CPI-U threshold were incurred by school district employers beginning in the 2003-05 biennium, the school districts would have to take one or more of the following actions: (a) reallocate the required additional sums to fund the QEO from elsewhere in the district's base budget; (b) generate revenues to fund these increased costs from the property tax levy, to the extent allowed under the district's revenue limit, in which case such costs would be included as shared costs in the following year's calculation of equalized aids; or (c) go to referendum to seek voter approval to exceed the revenue limits, in which case such costs would also be included as shared costs in the following year's calculation of equalized aids.

**Conference Committee/Legislature:** Delete Senate provision and include the following language applicable to QEOs:

*New QEO Component: Maintenance of All Conditions of Employment.* In order for a school district employer's offer to be deemed "qualified," newly require the employer to maintain all conditions of employment as those conditions existed 90 days prior to the expiration of any previous collective bargaining agreement between the employer and its represented teaching employees or 90 days prior to the commencement of negotiations, if there was no previous collective bargaining agreement.

*New QEO Component: Maintenance of Any Provisions Relating to Permissive Subjects of Bargaining.* In order for a school district employer's offer to be deemed "qualified," newly require the employer to maintain any provisions relating to permissive subjects of bargaining that existed in the previous collective bargaining agreement between the employer and its represented teaching employees or that existed 90 days prior to the expiration of any previous collective bargaining agreement between the parties in any written agreement by the parties.

*Binding Arbitration Authorized if Employer's Offer is Not "Qualified."* Specify that if an investigator from the Employment Relations Commission determines, as part of an investigation whether a bargaining impasse exists between the parties, that the employer has not submitted a timely QEO, either the labor organization representing the school district professional employees or the school district employer would be authorized to petition for compulsory, final and binding arbitration, and the current law QEO provisions whereby an employer could avoid such arbitration procedures would not apply. Require the Commission to prescribe by rule the methodology to be used to determine whether or not a proposal submitted by a school district employer constitutes a timely QEO.

*Initial Applicability.* Provide that these provisions would first apply to petitions for arbitration filed by school district employers or their represented teaching employees after the general effective date of the biennial budget act.

**Veto by Governor [F-4]:** Delete provision.

[Act 16 Vetoes Sections: 2609L, 2609m, 2609p, 2609t and 9317(8m)]

## **11. ESTABLISHMENT OF A SCHOOL CALENDAR MADE A PERMISSIVE SUBJECT OF BARGAINING**

**Assembly:** Provide that no school district would be required to bargain collectively on matters relating to the establishment of a school year calendar. Specify that this provision would not be construed to eliminate the duty of the employer to bargain collectively with its represented employees with respect to: (a) the total number of days of work and the number of those days which are allocated to different purposes, such as the days on which school is taught, in-service days, staff preparation days, convention days, paid holidays and parent-teacher conference days; and (b) the impact of the school calendar on wages, hours and conditions of employment. Repeal a duplicative current law school district governance provision establishing a school district duty to bargain collectively over any calendaring proposal that is primarily related to wages, hours and conditions of employment. Specify that

these provisions would first apply to collective bargaining agreements that expire or are extended or are modified or renewed on and after the general effective date of the biennial budget act.

**Conference Committee/Legislature:** Delete provision.

## **12. DISCIPLINARY ACTION AGAINST SUBORDINATES BY CITY POLICE AND FIRE COMMISSIONS**

**Senate:** Specify that a hearing on a suspension of a subordinate by a police or fire chief may be heard before an arbitrator appointed by the Wisconsin Employment Relations Commission in addition to before the Board of Police and Fire Commissioners, as currently authorized. Make conforming modifications to reflect the fact that it is no longer the Board alone that would be making determinations on the charges against the subordinate. Delete a requirement that the Board must set the date for the hearing not less than 10 nor more than 30 days following the service of charges against the subordinate and specify instead that the Board or the arbitrator must render a final decision on the charges not later than 180 days after the date on which the hearing commences.

In addition to the current listing of statutory standards that must be applied by the Board or the arbitrator in determining whether the charges should be sustained, newly include provision for rules for such determinations where the rules are collectively bargained with representatives of the bargaining unit of which the subordinates are members. Explicitly authorize the labor organization representing the person on whom the discipline is imposed to appeal to Circuit Court for a motion to change the decision.

**Conference Committee/Legislature:** Delete provision.